April 15, 2022: National Advocacy Update

Proposed fix to ACA family glitch follows AMA advocacy

The White House announced plans to fix the Affordable Care Act's (ACA) “family glitch” through proposed regulations that will allow family members of workers offered affordable self-only coverage to gain access to subsidized ACA marketplace coverage.

As described in a 2021 AMA letter (PDF) to the Centers for Medicare & Medicaid Services (CMS), in determining eligibility for premium tax credits, coverage for family members of an employee is considered to be “affordable” as long as employee-only coverage is affordable. Accordingly, affected family members have been blocked from receiving financial assistance to purchase ACA marketplace coverage, which can often be more affordable. Should the proposed regulations be finalized, an estimated 200,000 uninsured people would gain coverage, and nearly one million Americans would see their coverage become more affordable. The AMA will develop comments on the proposed regulations.

AMA comments on CDC’s proposed updated guideline for prescribing opioids

In February, the AMA applauded several changes that the Centers for Disease Control and Prevention (CDC) proposed in a comprehensive update to its problematic 2016 guideline on opioid prescriptions. This week, the AMA provided specific comments on the proposed update to the guideline, which were shared in a letter (PDF) to the acting director of the National Center for Injury Prevention and Control.

The AMA strongly supports the CDC’s removal of specific dosage and day limits for an appropriate opioid prescription in the proposed guideline recommendations and urges the CDC to finalize this important change. The AMA also welcomes the emphasis in the proposed guideline on patient-physician shared decision-making and the many calls for patient care decisions to be individualized. Finally, the CDC acknowledges throughout the proposed guideline that the 2016 guideline has been widely misapplied, resulting in widespread harm to patients with pain.
The letter asks the CDC to urge all relevant state, national and federal stakeholders, including legislatures, regulators, health plans, pharmacy chains and pharmacy benefit management companies, to remove all of the policies they previously adopted based on the inflexible numeric thresholds in the 2016 guideline. The AMA encourages CDC to state that it opposes the use of its recommendations to justify any law or policy with a specific threshold for prescription dose or duration.

Alongside their overarching review of the proposed guideline, the AMA provided individual comments on each of the 12 CDC recommendations.

In addition to the changes to the CDC recommendations, the AMA urges CDC to undertake a national marketing and communications campaign to make clear to the general public, law enforcement and all health care professionals that the final CDC 2022 Guideline should not be “a replacement for clinical judgment or individualized, person-centered care.”

**Administration set to end Title 42**

On April 1, 2022, the CDC announced the complete termination of order 42 U.S.C. §§ 265, 268 and 42 C.F.R. § 71.40 (Title 42), which allowed the U.S. Department of Homeland Security (DHS) to expel migrants at the border based on their country of origin, path of travel or likelihood of coming into contact with a communicable disease such as COVID-19. This announcement came shortly after the CDC ended Title 42 as it applies to unaccompanied minors. Since the inception of this order in March 2020, over a million migrants and asylum seekers have been turned away and expelled back to their home countries and Mexico without receiving any immigration hearings.

The AMA believes (PDF) that decisions regarding the exclusion of immigrants to the United States due to a “communicable disease of public health significance” should be made only by the U.S. Public Health Service based on the best available medical, scientific and public health information.

Termination of Title 42 is set for May 23, 2022, to allow DHS more time to implement appropriate COVID-19 mitigation protocols such as providing COVID-19 vaccinations to migrants and preparing for resumption of regular migration under Title 8, though there has been a rising amount of opposition to the termination for Title 42 which has the potential to delay resumption of Title 8. The AMA thanks the CDC for rescinding this order and looks forward to continuing its support for the health and well-being of this population.

**Maternal health win in 2022 Omnibus Appropriations package**

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The AMA is proud to report the inclusion of nearly $1 billion in maternal health priorities in the Fiscal Year 2022 Omnibus Appropriations package. The AMA has long been committed to improving maternal health and tackling the issues and health disparities surrounding maternal mortality and morbidity. This investment is necessary to address this multifaceted issue and will attempt to address and reverse the trends of maternal mortality and severe morbidity. Part of the funding legislation includes:

- $83 million for Safe Motherhood/Infant Health Programs at the CDC, which include Maternal Mortality Review Committees and Perinatal Quality Collaboratives
- $748 million for the Maternal and Child Health Block Grant to fund programs that support the health and well-being of mothers, children and families
- $13 million for CDC’s Surveillance for Emerging Threats to Mothers & Babies program (SET-NET), which detects the effects of new health threats like COVID-19 on pregnant people and their babies by collecting key data
- $4 million for the Maternal Mental Health Hotline, which will be a 24/7 call, text and web chat hotline for pregnant people and new mothers with maternal mental and behavioral health conditions
- $6.5 million for Screening and Treatment for Maternal Depression and Related Disorders
- $6 million for the Rural Maternity and Obstetric Management Strategies (RMOMS) program

Also included are key provisions of the Maternal Health Quality Improvement Act (PDF), which the AMA supports, and which provides funding for innovative maternal health care programs, implicit bias training for health care professionals, integrated health care services during and after pregnancy, maternal vaccination awareness initiatives and enhancements to existing rural maternal health programs.

AMA supports physician-led care for veterans in H.R. 7048

The AMA has urged (PDF) the House of Representatives to pass the “Protect Lifesaving Anesthesia Care for Veterans Act of 2022” (H.R. 7048). This important bipartisan legislation would prohibit the Secretary of the Department of Veterans Affairs from replacing physician anesthesiologists with certified registered nurse anesthetists (CRNA) under the health care system of the Department of Veteran Affairs (VA).

Physician-led team-based care has a proven track record of success in improving the quality of patient care, reducing costs and allowing all health care professionals to spend more time with their patients. The AMA strongly supports the team approach to patient care, with each member of the team playing a clearly defined role as determined by his or her education and training. While the AMA greatly values the contribution of CRNAs to the physician-led care team, their training is not equivalent to that
of physician anesthesiologists.

Our nation’s veterans should be provided with the highest quality of care—physician-led health care teams that consider important scope of practice limitations and make the most of the respective education and training of physicians and CRNAs. Therefore, the AMA is proud to support H.R. 7048.

**Radiation oncology model delayed as CMS seeks public input**

CMS has announced that it is delaying the Radiation Oncology (RO) alternative payment model until a future date and is seeking public comments on what the new start date should be and what the model participation period should be. The AMA has joined with other RO stakeholders in supporting congressional action that has twice delayed the model previously. The new proposed rule (PDF) is a welcome opportunity for the medical community to provide input to CMS as it rethinks and improves the design and implementation of this model.

**Medicare advance payment recoupment rate increasing**

Following AMA advocacy, Congress significantly improved the repayment terms for Medicare advance payments that were made available so physician practices could stay afloat at the beginning of the COVID-19 public health emergency. AMA secured a one-year delay to the start of repayment, a reduction in the per-claim repayment amount, and a reduction in the interest on any outstanding funds from 10.25% to 4%. Under statute, the 25% automatic recoupment rate for Medicare advance payments will remain in place for the first 11 months of the recoupment period. After 11 months, the recoupment rate will increase to 50% and will remain in effect for 6 months. For example, if Medicare recoupment began on May 10, 2021, the recoupment rate will increase from 25% to 50% on April 10, 2022, and will continue for 6 months. The recoupment rate has just increased to 50% for the first payments.

Physicians who are associated with a single tax identification number (TIN) within the same Medicare Administrative Contractor jurisdiction will continue to be grouped together. When one Medicare advance payment within a group that shares the same TIN becomes eligible for the 50% recoupment rate, all Medicare advance payments within that TIN group will be subject to the 50% recoupment rate. If the Medicare advance payment is not fully repaid within 29 months from when it was disbursed, including the 12-month delay before recoupment began and 17 months of automatic recoupments, physicians will receive a demand letter for the remaining balance.
Extension of the public health emergency

Health and Human Services Secretary Xavier Becerra issued a declaration extending the Public Health Emergency determination for an additional 90 days, effective April 16. This is the ninth such extension since the original declaration.

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